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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,273	12/09/2004	Bernhard Podirsky	PIZ-106	2781
23557 7590 03/31/2009 SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION PO Box 142950 GAINESVILLE, FL 32614				
EXAMINER				
NGUYEN, CHI Q				
ART UNIT		PAPER NUMBER		
3635				
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03/31/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/517,273

**Applicant(s)**

PODIRSKY, BERNHARD

**Examiner**

CHI Q. NGUYEN

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 18-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 14 and 18 is/are allowed.  
6) ☒ Claim(s) 1-5, 12, 13, 19 and 20 is/are rejected.  
7) ☒ Claim(s) 6-11 and 15 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 15 February 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 1/15/2009.

#### ***Status of Claims***

Claims –15, 18 and newly filed 19-20 are pending.

Claims 16-17 have been cancelled.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the overlapping and underlying skirts must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: in page 9, lines 14-16 there is a typographical error for "baton" should read --batten. And the batten is labeled as 154 not 164 (see page 10 line 7).

Page 8, line 23, a typographical error for "fascia" should read --fascia--

Appropriate correction is required. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 14 recite the limitation "the junction" in line 1. There is insufficient antecedent basis for this limitation in the claims. Claims 2-13, 15 and 18-20 depending upon the rejected claims 1 and 14 are also rejected.

Claims 2-3 recite the limitation "the ingress". There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 12-13 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4,914,885 to Baker et al.

Claim 1:

Baker et al. disclose in Figs. 9-12, a cladding apparatus for covering a junction between a roof and a fascia of a building, wherein said apparatus comprises: an elongated body member 1, 1', 1'' having an inner surface and an outer surface, each surface extending between opposed ends and opposed elongate side edges of the body member; a mounting batten 20, 20', 20'' associated with said fascia (note that a fascia is not positively claimed) and adapted to engage at least one complementary mounting portion 9 provided on said inner surface; complementary inter-engaging means 13 provided on respective said opposed ends and permitting substantially weatherproof engagement between adjacent body members when laid in longitudinal sequence.

Claim 2:

Wherein the body member portion overlying said roof is adapted to impede the ingress of weather under said body member in use (see Fig. 9).

Claim 3:

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Wherein said body member portion 1, 1', 1'' overlying said roof impedes the ingress of weather under said body member by means of a flange 15 dependent toward said roof from and extending along said elongate edge.

Claim 4:

Wherein said roof is provided with an elongate roof batten 20 sealingly supported on said roof, said roof batten 20 including an upper surface against which the inner surface of said body member 1 bears in use.

Claim 5:

Wherein said flange 15 in use has its lower edge clear of said roof, so as not to interfere with intimate contact of said upper and inner surfaces.

Claim 12:

Wherein said complementary inter-engaging means 9 provided on respective said opposed ends comprise an overlapping skirt portion (upper surface of the upper end portion and lower surface of the other end portion) on one said end and an underlying skirt portion on the other said end.

Claim 13:

Wherein mating faces of said overlapping skirt portion and said underlying skirt portion are provided with complementary surfaces features cooperating in use to form a weather impeding labyrinth (see Fig. 12).

Claim 19:

Wherein said roof comprises a shingle laid roof, said roof batten 20 having a profile selected to conform to said shingle laid roof.

Claim 20:

Wherein one or both of said inner surface and upper surface are provided with one or more elongate grooves 12/14 forming, in use, a moisture-excluding labyrinth between said inner surface and said upper surface.

***Allowable Subject Matter***

Claims 14 and 18 are allowed.

Claims 6-11 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 12-13 and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://paired.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635